 ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services	)	CC Docket No. 95-20
	)	
1998 Biennial Regulatory Review -- Review of *Computer III* and ONA Safeguards and Requirements	)	CC Docket No. 98-10

OPPOSITION OF BELL ATLANTIC[1]
TO PETITION FOR RECONSIDERATION AND CLARIFICATION

The goals of non-discrimination and open competition are fully met by the Commission's existing non-structural safeguards, and there is no need for the Commission to impose the additional requirements that the Commercial Internet eXchange Association ("CIX") requests. Therefore, the Commission should deny CIX' request to include the DSLAM deployment schedule and line conditioning information in the Commission's network disclosure requirements and to require all existing comparably efficient interconnection ("CEI") plans to be posted on the Internet. Nor is CIX' requested clarification of the scope of the CEI plan posting requirements needed.

[1] The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

CIX asserts (at 4), without submitting any evidence whatsoever, that Internet service providers ("ISPs") are not being provided accurate, timely information on incumbent exchange carriers' broadband deployment decisions. CIX further speculates that the incumbents' affiliated ISPs receive advance knowledge of planned ADSL deployment and that this knowledge gives them an unfair marketing advantage, again without a shred of documentation. By applying the network disclosure rules to deployment of DSLAMs and line conditioning information, CIX claims, all providers would be placed in the same position. However, CIX has not even attempted to show that any ISP has received deployment information on an untimely basis nor that any carrier has given any preference to its affiliated ISP. There is no simply problem that warrants reconsideration, and CIX' petition should be denied.

In the decision here, the Commission simply eliminated the prior approval requirement before a carrier may offer a new enhanced service. It neither eliminated nor modified the ONA non-structural safeguards which have been in effect for more than a decade. These safeguards, as the Commission reiterated here, "ensure[s] that a non-BOC ISP is not put at a competitive disadvantage." *Report and Order*, 15 Comm. Reg. (P&F) 149, ¶ 13 (1999) ("Report and Order"). Among other things, they require the Bell companies to make underlying telecommunications services available to affiliated and non-affiliated ISPs at the same time and under the same terms and conditions.

CIX appears to be arguing that these safeguards are somehow inadequate to prevent discrimination when the Bell companies deploy advanced services, such as ADSL. Not only does CIX provide no evidence to support its erroneous claim, its proposed "cure" for a non-existent problem is to apply network disclosure rules to the offering of new services. Those rules

would require the Bell company to wait to deploy a new service for 6-12 months after it has disclosed the deployment schedule. *See* 47 C.F.R. § 51.331. This result would contradict Commission and Congressional policy to promote rapid deployment of new technologies and services by forcing carriers to delay the availability of new services that CIX' ISP members need to deliver high-speed Internet access to their customers.

CIX confuses the issue by arguing that the Commission should require a network disclosure for the deployment schedule for DSLAMs, which are simply items of central office equipment used to provide ADSL service. But the network disclosure rules apply only to changes that affect interconnection. And ISPs do not directly access DSLAMs, so that the installation of DSLAMs have no effect on interconnection. As a result, the network disclosure rules are inapplicable.

Instead, installation of DSLAMs equates to the deployment of ADSL service. And Bell Atlantic disclosed the interface for ADSL more than two years ago. Bell Atlantic's ADSL deployment schedule, just like the deployment schedule for other services, appears in the applicable tariff, so that all customers, affiliates and non-affiliates alike, have ample notice of where ADSL is going to be available. CIX has made no attempt to show that this notice is inadequate, nor how its members are disadvantaged vis-a-vis Bell Atlantic's ISP affiliate.

Moreover, the network disclosure rules are not intended to apply to the geographical deployment of telecommunications services. Network disclosure is designed to provide notice to the public of changes that a carrier plans to make in its network that will affect interconnection. *See* 47 U.S.C. § 251(c)(5) (establishing a "duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services."

(emphasis added)); 47 C.F.R. § 51.331 ("An incumbent LEC shall give public notice of planned changes." (emphasis added)). By providing advance notice of network changes, interconnecting service providers – including ISPs – and CPE vendors are afforded sufficient time to modify their equipment and services to meet the new network specifications without interruption of service to any customer. Once a new or changed interface is disclosed, as it was more than two years ago for ADSL, further geographical deployment of the service that includes the interface is routinely disclosed by tariff or service agreement, not network disclosure.

CIX's proposal to delay providing ADSL to new locations for the 6-12 month notice period required under the network disclosure rules is also inconsistent with Congressional and Commission policy allowing dominant carriers to file new services on 15 days' notice. *See* 47 U.S.C. § 204(a)(3), 47 C.F.R. § 61.58(d). The Commission should not discourage rapid expansion of new services such as ADSL which used previously-disclosed interfaces by imposing the additional 6-12 month waiting period each time a carrier offers the service in an additional location. Instead, tariff notice ensures that all interested parties receive adequate notice without unduly delaying service expansion.

CIX further argues (at 6) that "the status of loop conditioning" should be subject to network disclosure, "because the customer whose line is conditioned is able to purchase the broadband services offered by the LEC or the ISP." It is unclear what "the status of loop conditioning" means or how that information would benefit ISPs. Bell Atlantic does not currently condition loops as part of its ADSL offering. If it should offer that service in the future, it will be available on a non-discriminatory basis, so that no ISP, affiliated or non-

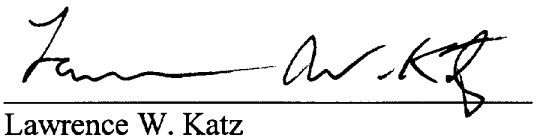
affiliated, will be advantaged.[2] However, there would be no public benefit by subjecting loop conditioning information to the network disclosure rules, as CIX proposes, because a customer would then need to wait 6-12 months after its line is conditioned before it can receive ADSL service. The reason that a line would be conditioned in the first place is because the customer wants ADSL service, usually to obtain high-speed Internet access, and neither the customer nor the Internet provider would benefit by forcing such a delay.

CIX' request that all approved CEI plans must be posted on the Internet is also a solution in search of a problem. Plans that became effective prior to the date of the new rules were affirmatively approved by Commission order after notice and a full opportunity for comment, and both the plans and the Commission's orders have long been on the public record. Many of these plans have been in effect for many years, some for more than a decade. CIX has not attempted to show that any needed information is not readily available or that Internet posting would add any value. In the absence of any showing of need, there is no justification for amending the current rules to require posting of existing plans.

[2] Under the Act and the Commission's orders, loop conditioning services and information that Bell Atlantic provides as part of UNE offerings are available only to carriers, not ISPs.

Finally, CIX is correct that the Commission's rules require entire new CEI plans to be posted on the Internet, not just amendments to CEI plans. Those plans (and amendments) are effective upon posting. Report and Order at ¶ 20. The Commission's order is clear in that regard, and no clarification is needed.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of July, 1999, copies of the forgoing "Opposition to Petition for Reconsideration and Clarification" were sent by first class mail, postage prepaid, to the parties on the attached list.

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* Via hand delivery.

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